

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION**

KATHY JONES,)	
)	
Plaintiff,)	
)	CIVIL ACTION NUMBER:
v.)	
)	2:06-cv-927-MEF
DOLGENCORP, INC.,)	
)	
Defendant.)	

**DEFENDANT DOLGENCORP, INC.'S
MOTION FOR SUMMARY JUDGMENT**

COMES NOW, Defendant, Dolgencorp, Inc. (“Defendant” or “Dolgencorp”) and respectfully moves this Court, pursuant to Rule 56 of the Federal Rules of Civil Procedure, to grant summary judgment in its favor on all of Plaintiff Kathy Jones’ (“Plaintiff” or “Jones”) claims against it. Dolgencorp bases this motion upon the following separate, severable, and alternative grounds:

1. Plaintiff’s Fair Labor Standards Act “off the clock” claim is barred because Plaintiff has waived any right to bring this claim.

(a) In connection with an audit of Dolgencorp Store No. 7267, the United States Department of Labor (the “DOL”) previously determined that Jones was owed \$185.84 in gross back wages pursuant to the Fair Labor Standards Act.

(b) A check in the gross amount of \$185.84 (the “Check”) was sent to Jones under the direction and supervision of the DOL, which included a Receipt for Payment of Lost or Denied Wages (the “Receipt”). Jones negotiated the Check, but failed to sign and return the Receipt as instructed.

(c) The Receipt states that “Your acceptance of back wages due under

the Fair Labor Standards Act means that you have given up any right you may have to bring suit for such back wages under Section 16(b) of that Act.”

(d) Even though Jones failed to sign and return the Receipt, her acceptance of the Check, as a matter of law, operates to waive any rights she had to sue Dolgencorp for back wages under the FLSA.

2. In support of its Motion for Summary Judgment, Dolgencorp relies on its Brief in Support of Its Motion for Summary Judgment and its Evidentiary Submission in Support of Its Motion for Summary Judgment, both of which have been filed contemporaneously herewith.

WHEREFORE, PREMISES CONSIDERED, Dolgencorp respectfully requests that the Court grant its Motion for Summary Judgment upon all of Plaintiff's claims against it, and to provide such other relief as the Court deems appropriate.

Respectfully submitted,

s/Christopher W. Deering
Bar No.: ASB-5555-I71C

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CERTIFICATE OF SERVICE

I hereby certify that on January 18, 2007, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following:

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